

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2701 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RALLI MACHINES LTD

Versus

H N PATEL

Appearance:

MR DG CHAUHAN for Petitioner
MR PRABHAKAR UPADHYAY for MR MH RATHOD for
Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/09/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. By this petition, challenge has been made by
petitioner to the award of the Labour Court No.1, Surat,

under which the petitioner is directed to reinstate the respondent in service with 75% backwages.

#. On 17th October, 1989, this court has granted interim relief in favour of petitioner which order reads as under:

"Having heard the learned advocates for the parties, we find that this is a case in which proper order under section 17-B of the I.D.Act, 1947 will have to be passed in lieu of the reinstatement awarded by the Labour court, to the respondent. Respondent will have to file appropriate affidavit in this connection and subject to the petitioner challenging the contents of the affidavit, if it is found that the respondent is unemployed at present, he will have to be paid monthly wages from the date of the award on the basis of last wages drawn before termination during the pendency of this petition. So far as 75% backwages awarded to the respondent from the date of termination till the award to, there will be stay to the extent of 35% of backwages, meaning thereby, the petitioner will pay 40% of backwages to the respondent. The petitioner will deposit 40% backwages from the date of termination till the award before the labour court within six weeks from today. Petitioner will also deposit in the labour court all arrears of wages from date of the award till today on the basis of last wages drawn before termination, within that period. Liberty reserved to the respondent to withdraw the deposited amounts. Further wages on same basis may be directly paid by the petitioner to the respondent as and when they fall due. Ad-interim stay granted earlier will stand modified as aforesaid."

#. The learned counsel for the petitioner submits that the amount of 40% of backwages of the respondent has already been deposited in the Labour Court at Surat. So far as 35% of the backwages is concerned, the learned counsel for respondent, on instructions received from his client, states that the respondent foregoes the same. In view of this statement made by learned counsel for respondent, the award impugned in this special civil application is modified to the extent only that instead of 75% of backwages, it will be read therein as 40% backwages. This amount of 40% backwages, if it is deposited by petitioner in the Labour Court, the

respondent is free to withdraw the same. If it is not deposited, the same be deposited within two weeks from today and on deposit of the same, the respondent shall be entitled for withdrawal of the same. Rule and special civil application accordingly stand disposed of with no order as to costs.

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(sunil)